

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

DEMETRIUS SCOTT, individually and
d/b/a LBS TAX SERVICES,
NEIGHBORHOOD TAX PROS, LLC., and
TAX GIANT, LLC.

Defendant.

Civil No.

6:14-cv-1535-ORL-31-GJK

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COMPLAINT FOR PERMANENT INJUNCTION AND OTHER RELIEF

The United States of America, for its complaint against Demetrius Scott, individually and doing business as LBS Tax Services, Neighborhood Tax Pros, LLC, and Tax Giant, LLC, alleges as follows:

1. This is a civil action brought by the United States under I.R.C. (26 U.S.C.) §§ 7402, 7407, and 7408 to enjoin Scott, and anyone in active concert or participation with him, from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (2) preparing or assisting in preparing federal tax returns that he knows or reasonably should know would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;

- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

This action also seeks, under I.R.C. § 7402, an order requiring Scott to disgorge to the United States the proceeds that Scott and his businesses received for the preparation of federal tax returns that make false or fraudulent claims.

Jurisdiction and Venue

2. This action has been requested by the Chief Counsel of the Internal Revenue Service, a delegate of the Secretary of the Treasury, and commenced at the direction of a delegate of the Attorney General, pursuant to I.R.C. §§ 7402, 7407, and 7408.

3. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1340 and 1345 and I.R.C. § 7402.

4. Venue is proper in this Court under 28 U.S.C. § 1391(b)(1) because the Defendant resides in this district and all or a substantial portion of the activities occurred within this district.

Defendant

5. Demetrius Scott resides in Orlando, Florida. Scott is a franchisee of LBS Tax Services. Scott is the sole owner of Neighborhood Tax Pros, LLC, and Tax Giant, LLC. Through these entities, Scott owns and operates at least 30 tax return preparation stores in Florida, Georgia, North Carolina, and South Carolina.

6. LBS Tax Services is a tax return preparation business that Walner G. Gachette franchises through Loan Buy Sell, Inc., a corporation organized in the State of Florida. In 2013,

there were at least 239 LBS Tax Services stores in Florida, Georgia, North Carolina, South Carolina, Tennessee, Alabama, Mississippi, and Texas. LBS Tax Services franchise stores prepared over 55,000 federal income tax returns in 2013.

7. Currently, the LBS franchise is operating primarily in the Southeastern region of the United States. But it is spreading rapidly. Its stated goal is to have 1,000 LBS tax return preparation stores operating throughout the United States by 2016. Consequently, if not enjoined, LBS's business model of fraudulent tax return preparation threatens to grow from a regional problem, to a nationwide epidemic.

8. This lawsuit is one of several being filed simultaneously against the LBS franchisor and LBS Tax Services franchisees, managers, preparers (and/or former LBS Tax Services franchisees, managers, and preparers operating under new business names) seeking injunctive relief under the Internal Revenue Code. The other cases filed on this date are: *United States v. Walner G. Gachette* (M.D. Fla.); *United States v. Douglas Mesadieu* (M.D. Fla.); *United States v. Jean R. Demesmin, et al.*, (M.D. Fla.); *United States v. Kerny Pierre-Louis, et al.*, (M.D. Fla.); *United States v. Jason Stinson*, (M.D. Fla.); *United States v. Wilfrid Antoine*, (S.D. Fla.); and *United States v. Jacqueline Nunez*, (S.D. Fla.).

LBS Tax Services' Business Structure

9. LBS Tax Services ("LBS") began in 2008 as a tax return preparation business in Orlando operated by Walner Gachette. In 2011, Gachette began franchising the LBS name to his employees to broaden his revenue base.

10. Scott began working at LBS in January 2010. Prior to then, Gachette and Scott met while serving as administrative advisors at Kaplan University. While working together at Kaplan University, Gachette informed Scott about his tax preparation business and offered him a

job. In January 2010, Gachette hired Scott to serve as the District Sales Manager (DSM) for the LBS store located at 1308 Rose Blvd., Suite F, Orlando, FL 32839 ("Rose Blvd Office"). As the DSM for this store, Scott collected a percentage of the revenues for this store in 2010, and this percentage increased in the following years. In 2012, Scott became a franchisee of LBS and opened 5 stores of his own. In 2013, Scott expanded his ownership by adding an additional 25 stores.

11. Scott, like most LBS franchisees, lives in the Orlando area but has opened LBS stores elsewhere in Florida and out-of-state in order to expand the LBS brand.

12. Scott created Neighborhood Tax Pros, LLC, and Tax Giant, LLC because Gachette requires that franchisees create LLCs through which they own their stores. Indeed, the franchise agreement between LBS and Neighborhood Tax Pros, LLC is executed by Scott on behalf of Neighborhood Tax Pros, LLC and Gachette on behalf of LBS.

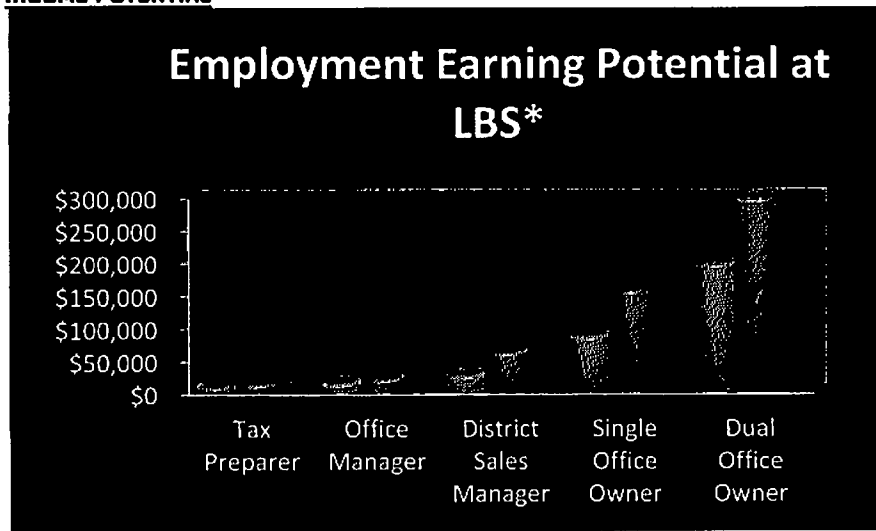
13. Each of Scott's individual LBS stores is managed by a District Sales Manager ("DSM"), who works for Scott. DSMs, in turn, oversee office managers, tax return preparers, and marketers (employees whose sole job is to solicit customers).

14. LBS lures prospective employees with promises of wealth and possible rapid advancement to franchisee level. One recruiting advertisement for LBS uses a graph to show that for 4 months of work, LBS employees have the following earning potentials:

On-Site job training / Rapid advancement opportunity / Complimentary company cell phone while employed / Most be self-motivated/ Will be IRS certified

INCOME POTENTIAL

Located at LBS**



Tax Preparer	\$5,000	\$10,000
Office Manager	\$10,000	\$15,000
DSM	\$25,000	\$66,000
Single Office Owner	\$90,000	\$160,000
Dual Office Owner	\$200,000	\$400,000

IN 4 MONTHS



15. The DSMs and the tax return preparers that Scott employs are not required to have any tax return preparation experience, knowledge of federal tax laws or accounting, or minimum education. Rather, the focus is on finding potential employees who have “customer service” experience. Indeed, when Gachette initially hired Scott to manage the Rose Blvd. Office, Gachette knew that Scott had no experience as a tax return preparer.

16. According to LBS, an LBS tax preparer's job is "60% outside marketing and 40% tax filing." LBS's emphasis on marketing, rather than tax return preparation, is apparent.

17. Scott was one of the first franchisees of LBS. The franchise agreements, titled "General Independent Contractor Agreement" required Scott to pay Gachette a \$5,000 franchising fee and \$5,000 marketing fee for every LBS store Scott owns, and \$50 "or more" in "service bureau" and "LBS transmittal" fees for each tax return filed. The terms disguise the nature of these fees from customers – there is no "service bureau," nor is there any "transmittal" cost. In 2013, these two fees totaled \$74 for each tax return filed.

18. Essentially, the franchise fee is for "buying" a zip code from LBS, as Gachette limits LBS franchisees to two stores per zip code. Gachette recommends zip codes to franchisees where he believes new LBS stores should be opened based on demographic studies. LBS seeks to have most, if not all, of its offices in areas with lower income taxpayers.

19. Franchisees, including Scott, are required to use (and pay for) the LBS advertising and marketing created by Gachette. Franchisees select a marketing package that may include, among other things, business cards, flyers, and yard signs.

20. Scott and his District Sales Managers enter into contracts, similar to the franchise agreements described above. Loan Buy Sell, Inc. is also a party to these contracts. The contract provides that payments are made to the DSM based on the number of customers at the DSM's store; the more customers that a store secures, the greater the financial benefit to the DSM, including a \$3,000 bonus if the store secures more than 500 customers. DSMs are compensated based upon what they paid to Scott. For example, a DSM receives 15% of a store's gross receipt in exchange for a \$2,500 deposit. The DSM can receive a greater percentage of a store's gross receipts provided the DSM pays Scott a larger deposit. For example, a DSM receives 70% of a

store's gross receipts in exchange for an additional \$15,000 deposit. The DSM's stake in his or her LBS store can increase each year as steps towards becoming a franchisee.

21. LBS emphasizes the volume of tax returns as opposed to the accuracy. For example, a contract between LBS and a DSM provides that a DSM can be fired if by **January 18** the projected number of fees generated by tax returns to be filed by the DSM's store is less than \$35,000. The number is projected because the IRS does not allow returns to be filed until after this date - the IRS began accepting 2012 tax returns on January 30, 2013. In other words, before tax return filing is even permitted, DSMs are supposed to have solicited a sufficient number of customers to generate \$35,000 in fees.

22. Scott's DSMs, in turn, hire tax return preparers and enter into employment agreements with the preparers that set forth, among other things, compensation and a two-year non-compete agreement. Scott's tax return preparers are paid nine dollars an hour and given bonuses when an office collectively prepares a certain number of returns. Scott's DSMs are purportedly required to train these tax return preparers based on the purported training that the DSMs received from Scott and in Orlando from LBS.

23. Scott and other LBS franchisees use tax return preparation software selected by Gachette which automatically deducts the customers' tax return preparation fees from customers' tax refunds. By mandating that LBS's fees be deducted from refunds rather than requiring payment when the tax return is prepared, Gachette effectively requires that LBS prepares tax returns for customers that result in the customer receiving a tax refund, even in instances where legally the customer is not due a refund. Indeed, Scott has admitted that only once during the 2012 filing season did a customer owe tax rather than claim a refund. In that instance, Scott

charged a \$250 preparer fee. In the 2012 filing season, Scott's offices prepared between 3,500 and 4,000 tax returns.

LBS Tax Services' "Training" and Lack of Quality Control

24. LBS does not provide any substantive tax law training. Gachette and other LBS-affiliated individuals provide week-long training to LBS franchisees and DSMs annually at an LBS facility in Orlando. Indeed, all of Scott's DSMs are required to attend this training. This training focuses on LBS policies, particularly how to market to potential customers and solicit business, how to manage employees, and how to use the tax return preparation software.

25. Gachette holds frequent meetings and conference calls with franchisees, including Scott, and DSMs. These meetings or calls may discuss, among other things, LBS policies, fees, and marketing. Gachette also provides copies of LBS's training and policy materials to franchisees and DSMs who attend these meetings, in addition to having franchisees and DSMs give presentations. Gachette emails (or directs his assistants to email) the LBS training and policy materials to franchisees and DSMs to ensure that anyone who does not participate in the in-person training or other meetings in Orlando has access to his training materials and copies of LBS's policies.

26. Scott and his DSMs train the tax return preparers employed at his individual LBS stores. This training focuses on marketing and data entry to prepare tax returns and how to charge related fees to customers in accordance with LBS's policies.

27. Gachette, Scott, and LBS actually train DSMs and tax return preparers how to prepare tax returns fraudulently in order to falsely and improperly maximize customers' tax refunds. Scott's DSMs and tax return preparers are specifically trained to increase the tax return preparation fees charged to LBS customers as they increase the customers' bogus refunds.

28. According to a DSM who in 2012 worked at one of Scott's LBS stores, LBS trained this DSM at the October 2011 training session in Orlando to prepare fraudulent tax returns in a variety of ways. According to this DSM, LBS instructed its new class of DSMs in 2012 to follow these same abusive practices, described below.

- a. First, LBS taught this DSM how to falsify a taxpayer's Schedule C in order to maximize the EITC. For example, the DSM was taught to prepare a Schedule C that would reflect a large loss in order to reduce the taxable income of a customer who had a large amount of wages shown on the customer's W-2. This loss would then be used to generate or increase the amount of EITC for the customer.
- b. Second, LBS taught this DSM to add an education credit to the customer's tax return even if the customer did not attend school as long as the customer looked the age of a student.
- c. Third, LBS taught this DSM that it was legal to instruct married customers to file not as married filing jointly or separately but rather as head of household.

29. LBS provides instruction sheets to its DSMs and tax return preparers that direct the preparers to input specific information into the tax preparation software to create the maximum bogus refund for customers. LBS preparers follow the instruction sheet to report customers' income within a specific range on their tax returns, even if the customers' actual income and circumstances (married, having dependents) that they provide to the preparer conflicts with what the preparer inputs into the software. By following these instruction sheets, LBS generates bogus refunds that customers are not entitled to. One such instruction sheet, frequently taped to the preparer's desk or on a wall next to the preparer's computer, indicated

which boxes to check on the Earned Income Tax Credit checklist (IRS Form 8867) in order to make it appear as though the preparer complied with the “due diligence” requirements (discussed in more detail below) necessary to claim the credit (regardless of the information provided by customers and whether the customers actually qualify for the credit).

30. One LBS instruction sheet is brazenly captioned “Magic numbers.” Preparers follow the instruction sheet, fabricating deductions on a Form 1040 Schedule A or creating bogus income or expenses on a Form 1040 Schedule C. The magic numbers sheet identifies the magic numbers as “16000-18000,” and states that “anything lower then this you try to add income to get as close as possible” and “anything higher then this you try to take away income to get as close as possible.”¹ The magic number sheet includes an example, for a customer who earned \$3,000 in wages, instructing the LBS tax preparer in such a situation to “input an income of 10000 on sch c” in order to falsely report the customer’s income as \$13,000. The sheet also instructs the preparer to report unemployment income as Form W-2 wages. A similar LBS instruction sheet includes the following: “Magic range 16,000 to 18,000”; “If made less than 10,000 **goal is to increase income so client to get more money** (add forms to get them more money) add Schc”; “**Made more than 24,000 you have to take income out so that you can get client more money.** (add deductions) 2106, SchA.” (emphasis added.) The purpose of manipulating a customer’s income in this manner is to falsely increase the amount of the Earned Income Tax Credit.

31. LBS franchisee Douglas Mesadieu, when deposed by the City of Orlando on August 26, 2013, testified that the “magic numbers would be how you can get – it’s numbers

¹ All quotations in this Complaint are copied exactly as they appear on the source document, including any spelling, punctuation, typographical, or grammatical errors.

where you can get the most amount for your client... [W]orking with numbers every day, you will know how to get your clients the max, you know how to get the least.” Mesadieu further testified about “pushing numbers” to avoid detection from the IRS:

A lot of when I spoke about pushing numbers, you don’t want to be in the sweet spot every time. You don’t want to – because that’s a – basically, I mean, that’s a red flag. You cannot be in a sweet spot every time, so you know – you’re aware of your sweet spot, and you don’t want to put a return where your client is getting the max every time because it would implement (sic) that you have a pattern. It would implement that something is wrong. Sweet spot is just for people to actually know and understand what not to do on certain circumstances, or what they can do on other circumstances.

32. Scott also provides scripts directing his employees on how to interact with customers and potential customers. One script used by LBS informs customers that they will be receiving a refund, although not all customers legally qualify for a refund:

SCRIPT:

There are three things that I am going to do for you today

1. I’m going to enter you information into the system
2. I will tell you how much your refund will be and
3. I will look for more forms and ways to get you more money legally, ok?

33. Scott and LBS fail to teach Scott’s DSMs and tax return preparers crucial elements related to basic tax return preparation. For example, they provide no genuine instruction on the legal requirements to claim the Earned Income Tax Credit and the related due diligence requirements, procedures for detecting fraudulent Forms W-2, and the methods to question customers who provide suspicious, false, or fraudulent information. To the contrary, Scott and LBS affirmatively instruct Scott’s DSMs and preparers on how to prepare returns that improperly claims bogus refunds based on false claims, credits, and deductions and to maximize the fees extracted from those refunds.

34. Gachette and LBS franchisees and employees give presentations to DSMs at the training in Orlando. DSMs are shown a power point presentation titled “Top 10 Things District Sales Managers Need to Know.” The top ten list does not include any training on tax law. The power point focuses on marketing, hiring employees, interacting with customers (including selling tax return preparation to “hesitant” customers through scripts and “rebuttals”), how to maintain and organize files, and what to wear and not wear in the office.

35. The scripts to talk to customers are the primary focus of the training provided to LBS employees. Scott requires his employees to memorize the scripts to solicit customers face-to-face and over the phone, and when preparing tax returns and attempting to coerce customers to agree to the inclusion of additional (and improper/false) IRS forms with, and bogus claims on, their tax returns. The purpose of these scripts is to solicit customers and, once those customers have come in the door, to run up the tax return preparation fees by attaching forms to the return at an additional charge to the customer. LBS includes bogus claims, credits, and deductions on these forms to generate a higher refund for the customer, and uses this higher refund to justify its additional tax return preparation fees.

36. As part of the training session, LBS gives its DSMs a “test.” Scott and other LBS franchisees are supposed to give the “test” to DSMs who cannot attend the training. The majority of the “test” and training is dedicated to marketing and soliciting business. The “test” also addresses LBS policies, such as how to maintain customer files and the fact that LBS’s tax return season “begins on December 26th.”

37. The training questions in the LBS “test” focus on data entry in the Drake software (the provider of the tax return preparation software that LBS licenses and uses to prepare LBS

customers' tax returns) and, in particular, how to input information on the forms that will generate the maximum (and bogus) refund for customers.

38. To the extent that the test addresses tax return preparation, the questions are very basic and, not surprisingly, the acceptable answers are not thorough and, occasionally, entirely incorrect.

39. The LBS "test" lists "Identification, Social Security Card, W-2, 1099" as the documents that a customer is purportedly required to provide to have their tax return prepared.

40. Scott's DSMs, in turn, are purportedly required to train the tax return preparers at their stores. However, the training slides in the top ten list power point presentation only pertain to marketing and Drake software. For example, the first slide regarding training, captioned "How to Train," discusses teaching the "Appointment setting 'on-the-spot' script," "Telephone script," and "Presentation script" to employees. There is no instruction on how to convey to employees even basic tax law concepts, how to explain IRS forms such as a 1040, or how to train tax return preparers to actually prepare tax returns.

41. Scott and LBS also train Scott's DSMs and preparers how to use Drake software to prepare tax returns. However, Drake software does not train preparers on tax law, and the training is limited to data entry and practice tax returns so that preparers know where to enter information in the software. Drake software itself does not provide in-person training.

42. Incredulously, Gachette claims that the IRS, not he and LBS, is responsible for providing tax training to LBS franchisees, such as Scott, and LBS tax return preparers, and that it is up to the IRS and Drake software to train LBS employees on how to prepare tax returns. However, the IRS and Drake software do not train LBS employees on tax law or proper tax return preparation, nor is it the IRS's duty to train LBS employees how to prepare honest,

accurate tax returns. That is LBS's responsibility, which it is completely and utterly failing to meet.

43. The IRS requires that individuals applying for an Electronic Filer Identification Number ("EFIN"), such as LBS franchisees (including Scott) and DSMs, complete an application and submit to a background check. The IRS does not provide training on tax law or tax return preparation in connection with its EFIN application. The requirements to obtain an EFIN are available at: <http://www.irs.gov/Tax-Professionals/e-File-Providers-&-Partners/Become-an-Authorized-e-file-Provider>.

44. An EFIN is a unique number that clearly identifies the authorized provider and the location where the return was prepared. Before a person may prepare and electronically transmit tax returns for customers, he or she must obtain authorization from the IRS to become an authorized provider. Every authorized provider must apply for and receive an EFIN from the IRS. The EFIN requirement is not a means for the IRS to "train" applicants on tax law or how to prepare tax returns.

45. DSMs serve as the Electronic Return Originator ("ERO") for their store. ERO is an Internal Revenue Service designation for the person or entity that electronically submits tax returns on behalf of customers. EROs are identified by their registered EFIN and are responsible for preparing and filing with each tax return an IRS Form 8879, "IRS e-file Signature Authorization." Form 8879 is a signature authorization for an e-filed return filed by an ERO on behalf of a customer.

46. IRS Publication 1345 requires that an ERO "be diligent in recognizing fraud and abuse, reporting it to the IRS and preventing it when possible." Scott and LBS conduct no meaningful quality control or oversight over their tax return preparers, much less act diligently to

prevent the fraud and abuse that is undertaken with respect to the preparation of customers' tax returns. Indeed, fraudulent return preparation is encouraged and flourishes at many LBS stores.

47. The only supposed quality control that Scott conducts is purportedly having "Area Managers," also known as "Area Developers," conduct occasional reviews of other LBS Tax Services offices. These reviews consist of making sure that employees are dressed properly, that customer files are stored properly, that the "presentation script" and various "cheat sheets" (such as the earned income tax credit "cheat sheet" that lists the answers that must be input into Drake software to complete to claim the Earned Income Tax Credit for a client) are taped to desks, and that the "forms order" cheat sheet (listing the order of forms that must be signed and placed in a customer's file) is posted on the wall. The reviews also purportedly require the Area Manager to review up to five customer files for quality control; however, the Area Manager does not review whether the customers' tax returns were properly prepared, but only whether certain forms are maintained in the files.

Defendant's Fraudulent Activity

48. Scott and those acting in concert with him and at his direction have created and maintained a business environment and culture of greed at his LBS stores that expressly promotes and encourages the preparation of false and fraudulent federal income tax returns in order to maximize corporate and individual profits. By doing so, Scott profits at the expense of his customers and the United States Treasury.

49. Many of LBS's customers have low incomes and are unsophisticated with respect to tax law and tax return preparation. Customers often have no knowledge that LBS prepares and files fraudulent tax returns on their behalf. For others, LBS preparers—with Scott's consent and urging—mislead customers about the law, particularly with respect to various credits and

deductions, and by promising them thousands of dollars of (illegal) refunds to coerce them to pay LBS to prepare their tax returns. Scott benefits by receiving a significant portion of LBS customers' fraudulently obtained refunds, which he retains through fees.

50. Scott instructs, directs, assists, advises, encourages, and causes his managers and preparers to engage in illegal practices. These practices include, but are not limited to:

- a. Making fraudulent claims for the Earned Income Tax Credit and circumventing due diligence requirements;
- b. Improperly claiming false filing status, such as Head of Household when the customer is actually married;
- c. Fabricating Schedule C businesses and related business income and expenses;
- d. Falsely reporting household help income ("HSH" income) on customers' tax returns
- e. Fabricating Schedule A deductions, including but not limited to deductions for unreimbursed employee business expenses and automobile expenses;
- f. Falsely claiming education credits to which their customers are not entitled;
- g. Inflating federal income tax withholdings that far exceed the amounts actually reported on customers' Forms W-2;
- h. Improperly preparing returns based on paystubs rather than Forms W-2;
- i. Failing to provide customers with a copy of the completed tax return; and
- j. Charging deceptive and unconscionable fees.

LBS Tax Services' "Guerilla Marketing"

51. Scott and LBS solicit customers through what Gachette calls "Guerilla Marketing." "Guerilla Marketing" involves misleading advertising and aggressive in-your-face individual sales pitches, targeted at low income individuals. The purpose is to get as many potential customers in the door, prepare their tax returns, and prepare and attach to their tax

returns additional and unnecessary forms containing bogus claims and credits, under the guise that LBS is doing so in order to legally increase the customer's tax refund.

52. Scott and LBS charge the customer exorbitant fees for preparing the return, for each form prepared and attached to the return, and for filing the return. LBS makes fraudulent claims on these forms, in order to improperly increase customers' refunds. LBS then falsely tells the customers that these forms legally increased the customers' refunds, and charges higher fees due to the additional forms and the higher refund that LBS claimed. These fees are all deducted from the customer's tax refund, often without the customer being told the amount that LBS actually charged for preparing the tax return.

53. "Guerilla Marketing" begins long before the tax filing season begins. LBS advertising focuses on the Earned Income Tax Credit, with street signs, flyers, and business cards that simply state, for example, that a potential customer can receive "\$3094 per child" from the IRS and listing an LBS phone number to call.

54. Scott and LBS instruct his employees to approach potential customers, ask whether they have children, hand out business cards, put up yard signs, and lure the potential customers to the LBS stores with promises of large refunds. This marketing occurs predominantly at large-scale retailers and grocery stores (marketers are specifically directed to solicit business at Wal-Mart), dollar stores, apartment complexes, public plazas, and large public events where LBS believes it can find potential customers who fit the low income demographic that it targets. LBS has also used radio ads, automated telephone calls, flyers on parked cars, billboards, and letters or mailers to previous or potential customers.

55. LBS's "Guerilla Marketing" is so aggressive that the LBS franchise agreement anticipates and accounts for the related fines that are inevitably imposed against LBS's stores by

cities and municipalities for violations of local ordinances, particularly regulations pertaining to signs and advertising placed alongside streets. The agreement provides that the first \$500 in fines are paid by the franchisee, with any additional amounts paid by DSMs.

56. DSMs are instructed that if the “city comes to your office, you should apologize and beg; say you weren’t aware of the rules,” and then go put out “200 yard signs 3 miles away from your office in each direction” at midnight. If a DSM receives a “letter before February 14th saying you have to go to court,” the DSM is instructed to “call the courthouse, tell them you have an emergency and can come to court any day in March.” The purpose of this is to avoid going to court until LBS’s tax preparation and filing season is effectively over.

57. LBS recruits and employs individuals, referred to as marketers, whose sole job is to solicit customers. LBS trains these marketers to “be discrete (pretend your shopping)” and “be careful for security that will kick you out.” The suggested times to market are “Before work, noon, 6-7 PM and midnight.” Marketers are advised to avoid security guards and store employees who will make them leave the premises.

58. LBS provide scripts to marketers (in addition to managers and tax return preparers) on how to solicit customers. One script contains general introductory language, with three variations (depending on the date) used to schedule an appointment for the customer to have his or her tax return prepared. In all three variations, the script begins:

“Hi, I’m John a tax preparer. This year the IRS is giving \$3000 dollars per kid. What’s your name? How many kids do you have?”

[The script uses the answer of two children as the example.]

“Perfect, I can get you \$6000 to \$7000 dollars legally.”

From December 6 to December 26, before the tax year is even over, the script concludes:

“Do you have you last paycheck stub?”

If the customer says no, the script continues: “OK, What’s your name and number; I will have my secretary give you a call after Christmas to give you directions to the office one hour before.”

From December 26 to January 8, the script concludes:

“Do you have you last paycheck stub?”

If the customer says yes, the script continues: “I can do your taxes with that, what time and date can you come to my office?”

From January 8 to March 14, the script concludes:

“Do you have your W2?”

If the customer says yes, the script continues: “What time and date works best for you to come to my office?”

(emphasis added.)

59. Of course, the IRS does not “give” taxpayers \$3,000 per child. Whether a taxpayer is entitled to a credit, such as the Earned Income Tax Credit or Child Tax Credit, and the amount of the credit that the taxpayer can claim, depends on numerous factors, including whether the child lives with the taxpayer, whether the taxpayer financially supports the child, and the age of the child.

60. LBS also provide similar scripts to tax return preparers and administrative staff at each store.

61. Instead of focusing on honest, accurate tax return preparation, LBS’s business model is result-oriented. LBS instructs preparers to “SELL ON FEAR!” and to “ALWAYS try to get the customer more than they received the last year filed taxes.” LBS’s power point presentation at its training session reiterates the script that preparers are repeatedly taught: “If

you agree I will leave the forms, If you don't I will take them off' – BUILDS TRUST!" If a customer hesitates, preparers are told to keep reiterating the portion of the script about how each form will get the customer more money from the IRS, and if the customer appears ready to walk away, preparers are instructed to get a DSM to help convince the customer to agree to the LBS's return preparation.

62. LBS employees speaking with potential customers over the phone are instructed to entice the customer by deceptively declaring how much money LBS can get refunded to the customer. For example, if a potential customer questions whether an LBS sign, business card, or radio ad was correct in saying the potential customer could get a tax refund of "\$3169 per child," the employee is instructed to respond that the potential customer "can get this much per child," ask how many children the potential customer has, and then tell the customer that "I can get you anywhere from 6-8 thousand" or "I can get you anywhere from 8-9 thousand," depending on whether the customer has 2 or 3 children. If the potential customer responds by questioning whether there is an income limit for the child credit, the employee is instructed to say that LBS "specialize[s] in maximizing your refund so come on in and we will show you exactly what you are entitled to."

63. The LBS scripts setting forth what employees are required to say upon completing customers' tax returns (or, more specifically, the Form 1040) are egregious and show a blatant disregard of the law. Once an LBS employee has completed the Form 1040, he or she is instructed to say to customers:

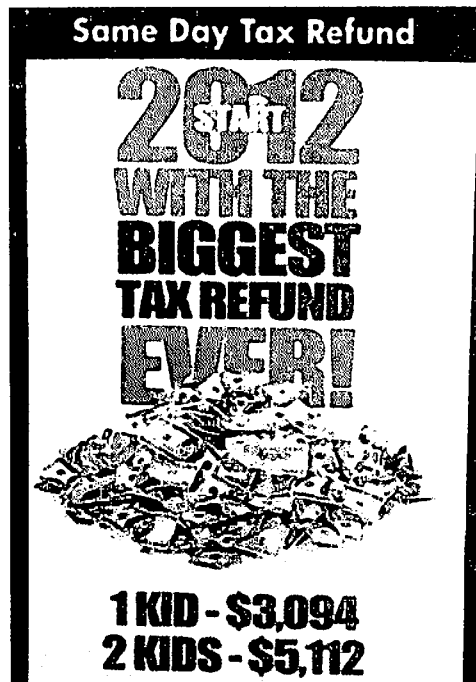
"At this time I am getting you back \$ [amount]. Ma'am or Sir, I can search for more forms to get you more money legally. Each form I use will cost you more but you get more money. For instance, I see I can get you an extra \$3000 by using 7 more forms and each form cost[s] about \$75.00. At the end I will let you know how much your refund will be, minus our fees. If you agree I will leave the forms on, if you don't agree, I will

take them off.”

LBS cannot legally “get” a customer \$3,000 by “using forms” (for example, the 7 forms in the above script). Individuals receive a refund if it is legally owed and based on the honest reporting of facts, not, as is the case with LBS’s tax return preparation, by adding to tax returns forms that do not apply and that customers do not understand. LBS entices customers with the possibility of a bigger (albeit fraudulent) refund based on LBS’s addition of forms to customers’ tax returns but, in reality, a form or schedule applies or does not apply and must be attached to a return only based on customer-specific facts or circumstances.

64. LBS’s tax return preparation is result-oriented, rather than being honest and accurate. LBS’s tax return preparation is based on maximizing LBS’s own profits by drawing customers into a web of deception with promises of money, which comes in the form of bogus refunds issued by the U.S. Treasury as a direct result of the fraudulent claims made on LBS-prepared tax returns.

65. LBS primarily solicits business using deceptive marketing focusing on the Earned Income Tax Credit, particularly as it relates to claiming dependents. During the 2012 filing season, in addition to the yard signs which read “Tax Refund \$3094.00 per child,” LBS also passed out the following business cards to potential customers:



66. LBS's advertisements regarding the Earned Income Tax Credit are misleading, at best, because the amount of the credit depends on several factors, such as income, marital status, and whether the child actually qualified as a dependent. LBS's advertisements simply recite the maximum amount of the credit that a taxpayer may be eligible per child with no mention, let alone explanation, of the criteria that must be met to qualify for such an amount. Rather the advertisements clearly suggest that if you have children you will receive refunds of \$3,094 for one child and \$5,112 for two children. Moreover, preparing tax returns using a taxpayer's pay stub, as advertised, rather than a Form W-2, violates IRS regulations. And, of course, the IRS does not issue a "same day tax refund."

67. LBS effectively offers guarantees to its customers that they will receive refunds. LBS's advertising clearly suggests that customers with children will receive a refund. Some of the ads specifically refer to "EIC," and for those that do not, it is evident, based on the specific amount identified in the ads and the income demographic that LBS targets, that the

approximately \$3,000 “per child” is due to the Earned Income Tax Credit. In addition, the “three things that I am going to do for you today” script that LBS requires employees to memorize and recite explicitly states, “I will tell you how much your refund will be.” Guaranteeing the payment of any tax refund or the allowance of any tax credit violates 26 U.S.C. § 7407(b)(1)(C). LBS’s tax return preparation practices ensure that customers do receive a refund, frequently based on bogus claims for the Earned Income Tax Credit.

Earned Income Tax Credit Fraud and Failure to Comply with Due Diligence Requirements

68. Scott and many of his managers and tax return preparers prepare tax returns that include fraudulent claims for the Earned Income Tax Credit (EITC) often based on bogus dependents, fabricated business income and expenses, and/or false filing status.

69. The EITC is a refundable tax credit available to certain low-income working people. The amount of the credit is based on the taxpayer’s income, filing status, and claimed number of dependents. The requirements for claiming the EITC are set forth in I.R.C. § 32 and the accompanying Treasury Regulations.

70. Because the EITC is a refundable credit, claiming an EITC can, in certain circumstances, reduce a taxpayer’s federal tax liability below zero, entitling the taxpayer to a payment from the U.S. Treasury.

71. Due to the method used to calculate the EITC, an individual can claim a larger EITC by claiming multiple dependents and, for certain income ranges, individuals with higher earned income are entitled to a larger credit than those with lower earned income. The amount of the credit increases as income increases between \$1 and \$13,050, and decreases as income increases beyond \$17,100. Some tax preparers who manipulate reported income to maximize the EITC refer to this range of earned income corresponding to a maximum EITC as the “sweet

spot” or “golden range.” For tax year 2012, the maximum EITC was \$5,891 and was available to eligible individuals with three dependent children who earned income between \$13,050 and \$17,100.

72. Because of the way the EITC is calculated, reporting more income, up to a certain point, allows customers to receive a larger refundable credit. Similarly, claiming losses to offset higher income to decrease the total reported income and to fall within the “sweet spot” allows customers to claim a larger refundable credit.

73. To solicit business, LBS uses enticements of higher refunds based on the number of children that a potential customer has.

74. Scott and many of his managers and preparers acting at his direction and with his knowledge and consent, falsify information to claim the maximum EITC for customers. Unscrupulous tax return preparers at LBS exploit the rules by claiming on their customers’ returns bogus dependents and/or by reporting phony Schedule C businesses and income. Consistent with the “magic numbers” instruction sheet, to bring the customer’s reported earned income within the “sweet spot” for the EITC, and depending on a customer’s actual income, LBS preparers inflate or fabricate Schedule C income to fraudulently increase customers’ reported earned income, or claim bogus Schedule C expenses to fraudulently decrease customers’ reported earned income.

75. Reporting bogus income not only improperly enables LBS to falsely claim the EITC, but to fraudulently claim other credits as well, including the American Opportunity Tax Credit.

76. Schedule C fraud is a means by which unscrupulous tax return preparers, like many of those at LBS, manipulate customers’ income in order to obtain bogus refunds based on

fictitious claims for the EITC and other credits. Because of the amount of the EITC credit, these preparers frequently charge higher fees in connection with their preparation of bogus Schedules C. Of the fees that LBS charges per IRS form, it charges \$250 or more for a Schedule C, the most for any form.

77. Because of the potential for abuse in claiming the EITC, Congress has authorized the Secretary of the Treasury to impose “due diligence” requirements on federal tax return preparers claiming the EITC for their customers. *See* 26 U.S.C. § 6695(g). These “due diligence” requirements obligate the tax return preparer to make “reasonable inquiries” to ensure the customer is legitimately entitled to the EITC. The tax return preparer may not “ignore the implications of information furnished to, or known by, the tax return preparer, and must make reasonable inquiries if the information furnished to the tax return preparer appears to be incorrect, inconsistent, or incomplete.” *See* 26 C.F.R. § 1.6695-2 (2011). Tax return preparers must also document their compliance with these requirements and keep that documentation for three years. *Id.*

78. To document compliance with the due diligence requirements, tax return preparers must complete either the “Paid Preparer’s Earned Income Credit Checklist” (Form 8867) and record and maintain other documentation verifying customer eligibility for the EITC.

79. As mentioned above, LBS provide its DSMs and preparers, including those at Scott’s stores, with specific instructions or cheat sheets that provide predetermined answers to input into the Drake software to claim the EITC on customers’ returns, and dictate what boxes to check on the IRS Form 8867, “Paid Preparer’s Earned Income Credit Checklist.” According to a former LBS DSM from one of Scott’s LBS stores, DSMs are trained to use and do use these cheat sheets. These instructions – and the predetermined answers – demonstrate that the actual

information (if any) provided by customers is disregarded by preparers, who simply answer the questions in the manner that LBS instructs in order to claim the EITC for customers who are not actually eligible for the credit (or for the inflated amount claimed by LBS):

EIC 2 NOTES:
SITUATION 1: -W2 taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children....." - click "not applicable" "taxpayers with self-employment income."
SITUATION 2: -Schedule C taxpayer: click "yes" for "Does the income appear to be sufficient to support the taxpayer and qualifying children....." - Question 2.) Fill out how many years the business has been in existence - Question 3.) Fill in "self" - Question 4.) Click "no" - Question 4b.) Type "by income only" - Question 5.) Click "yes" - Question 5a.) Click "log books" - Question 6.) "No" if there are no 1099-misc forms to support income, "yes" for 1099 taxpayer - Question 6b.) "Yes" - Question 7.) "Yes" - Question 8.) "Yes" - Question 9.) "No"

80. A portion of a similar LBS instruction sheet is below (the Drake software questions are followed by the predetermined answers in bold):

EIC2 INCOME (NOT A SCHC)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? **CHECK YES**
 TAXPAYERS WITH SELF-EMPLOYMENT INCOME: **CHECK NOT APPLICABLE**

EIC2 INCOME (W/SCH C)

DOES THE INCOME APPEAR TO BE SUFFICIENT TO SUPPORT THE TAXPAYER AND QUALIFYING CHILDREN? **CHECK YES**
 HOW LONG HAVE YOU OWNED YOUR BUISNESS? **1 YEAR**
 CAN YOU PROVIDE ALL DOCUMENTATION TO SUBSTAIATE YOUR BUISNESS? **CHECK RECEIPTS OR RECEIPT BOOK**
 WHO MAINTAINS THE BUISNESS RECORDS? **SELF**
 DO YOU MAINTAIN SEPARATE BANKING ACCOUNTS FOR PERSONAL AND BUISNESS TRANSACTIONS? **CHECK NO**
 IF "NO" HOW DO YOU DIFFERNTIATE BETWEEN PERSONAL AND BUISNESS TRANSACTIONS AND MONETARY ASSETS? **CASH LOG**
 WERE SATISFACTORY RECORDS OF INCOME AND EXPENSE PROVIDED? **CHECK YES**
 IF "YES" IN WHAT FORM WERE THESE RECORDS PROVIDED? **CHECK PAID INVOICES**
 FORM 1099-MISC NO/YES/YES/YES/NO

81. Because the Forms 8867 EITC Checklists that LBS stores generate are based on instruction sheets providing pre-determined answers showing that customers are eligible for the EITC, these forms, maintained in customers' files, appear to be complete, accurate, and based on statements and documentation provided by customers. In reality, because the answers are pre-determined, the only function of the LBS-completed Form 8867 EITC Checklist is to give the illusion that LBS complies with the due diligence requirements.

82. A closer review of LBS customer files reveals that Scott and many of his managers and preparers utterly fail to comply with the due diligence requirements. Customers are given an intake form to complete, which is comprised of several sections. The first few sections request basic information such as name, address, social security number, filing status, and dependents. The final section pertains to any business that the customer operated. Often these intake forms are not fully completed by the customer, if they are marked at all. In many instances the LBS preparer entirely disregards the customer's responses on the intake form.

83. The LBS intake form apparently serves no other purpose than to give the illusion that LBS is questioning its customers and complying with the due diligence requirements. Frequently LBS preparers, rather than the customers, complete the form to support the claims that the preparer is fabricating on customers' tax returns.

84. The IRS has conducted an investigation of Scott to determine whether he complied with the due diligence requirements while acting as a DSM of an LBS store. Due to violations by Scott of the due diligence requirements, the IRS assessed \$10,400 against him for violations of 26 U.S.C. § 6695(g). The IRS selected 104 tax returns for tax year 2010 that were prepared at an LBS store for which Scott was the DSM, and determined that none of the 104 returns complied with the due diligence requirements.

85. The conduct of Scott and many of his managers and preparers shows an intentional disregard for the tax laws and in particular for the due diligence requirements, and demonstrates their unwillingness to comply with the requirements. Not only do Scott and many of his managers and preparers fail to adhere to the due diligence requirements, but they are falsifying information in order to maximize the EITC for their customers.

Intentionally Claiming an Improper Filing Status

86. Scott and many of his managers and preparers also routinely prepare tax returns reporting false filing status. Specifically, head-of-household filing status is claimed on customers' tax returns to increase the amount of the customers' standard deduction, even though LBS is aware that the customer does not qualify for head-of-household status.

87. Scott and many of his managers and preparers frequently file separate returns for married couples who are not living apart, improperly using the "head-of-household" or "single" filing status, both of which are unavailable to married couples living together. Often, this is an attempt to increase the claimed EITC by claiming a higher standard deduction for each spouse filing head of household (\$8,700 on two returns) instead of filing one return as married filing jointly (\$11,900 on one return) or filing two returns as married filing separately (\$5,950 on two returns). A higher EITC would be claimed in this context when an LBS preparer seeks to decrease a customer's income by falsely claiming a filing status that generates a larger standard deduction.

88. For example, customer M.I. had her 2012 federal income tax return prepared at the LBS store located at 4329 University Ave. Jacksonville, Florida. M.I. went to LBS with her husband, and told her preparer that they were married. Rather than select the filing status of "married filing jointly" or "married filing separately," however, M.I.'s preparer falsely selected

“head of household” on M.I.’s return. The preparer also falsely reported on the return that M.I. had a child care business, and that this non-existent business had income in the amount of \$6,265. By falsely reporting this income and head of household filing status for M.I., the preparer claimed a bogus refund in the amount of \$4,312 which included an EITC claim in the amount \$3,169 on M.I.’s return.

Fabricated Schedule C Business Income and Expenses

89. Scott and many of his managers and preparers also prepare tax returns reporting non-existent businesses on bogus Forms Schedule C. On some of these returns, LBS reports substantial income, but little or no expenses. On other returns, LBS reports substantial expenses, but little or no income. The determining factor is whether LBS needs to inflate a customer’s income (or create income when the customer has none) to bring the income within the EITC range or “sweet spot,” or to lower the taxable income of a customer who has actual income (such as wages reported on a W-2) in order to either bring the income within the EITC “sweet spot” or simply to create a phony business loss to offset the customer’s wages and fraudulently reduce the customer’s income tax liability.

90. Scott and many of his managers and preparers also coerce customers to provide information that LBS can then use to fabricate claims on the customers’ tax return. One LBS script, captioned “Schedule C,” instructs preparers as follows: “if the person has a W-2 and made 5,000 or less ask if they have their own business give them examples of their own business (ex. hairstyling, nails, cutting grass).” Thus, based on LBS’s suggestions, if a customer responds that they cut a friend’s hair, or cut a family member’s lawn, or cooked for a church event, LBS then falsely reports that as a business on a Schedule C with bogus income and/or expenses in order to bring the income within the EITC “sweet spot” or to simply reduce the taxable income.

91. For example, Customer R.C. met a preparer at the LBS store located on 4329 University Blvd South, Jacksonville, Florida. R.C. went to see this preparer because the two knew each other from college. R.C. wanted this preparer to prepare her return in order to claim an education credit and gave the preparer the Form 1098-T for her college information. The preparer told R.C. that she would prepare a return which reported two Schedule C businesses, one for R.C. and the other for her husband. The preparer also told R.C. that she needed to sign a notarized statement for the businesses. R.C. did not feel that this was right and called her husband. R.C.'s husband told her to leave the LBS store and not sign anything. Before leaving, R.C. complained to the LBS store manager about the false Schedule C businesses placed on her return by the preparer. After discussing the return prepared by LBS with her husband, the two decided to not file the LBS prepared return and take their business to another return preparation business. When R.C. called the LBS store to inform them of their decision, the LBS employee hung up the phone on her. R.C. later learned that LBS did file the return it prepared for R.C. and her husband and kept \$900 from the claimed refund as their fee. The LBS store manager signed this return as the paid preparer and claimed over \$16,000 in false Schedule C business income. As a result of this false income, LBS requested a bogus refund for R.C. and her husband in the amount of \$5,062 which included an EITC claim of over \$5,000.

92. Customer A.M. had her 2012 federal income tax return at the LBS store located at 11761 Beach Blvd Jacksonville, Florida. Prior to preparing her return, LBS sent marketers to A.M.'s apartment complex to advertise their tax preparation services and offer to bring the customers to the LBS store and bring them back home. An LBS marketer asked A.M. if she had already filed her 2012 return to which A.M. responded no because she was unemployed in 2012. The LBS recruiter responded that "we can work that out." At the LBS store, a preparer reported

on A.M.'s return that she had a child care business and reported over \$10,000 in false income. As a result, LBS requested a bogus refund for A.M. in the amount of \$2,889 which included an EITC claim of over \$3,000.

93. Customer M.D. had her 2012 federal income tax return prepared at the LBS store located at 1605 Myrtle Avenue, Jacksonville, Florida. M.D. gave her preparer a copy of her son's social security card, the Form 1099-G for her unemployment, and the Form W-2 from her employer. The preparer told M.D. that she did not need to see the Form 1099-G because reporting it would not increase her tax refund. Also, the preparer did not ask M.D. if she was self-employed or had any sort of side jobs in 2012. The preparer told M.D. that she could get \$8,000 back in taxes, M.D. told her preparer in response that she did not want \$8,000 and only wanted the refund she was entitled to and no more. The preparer reported on M.D.'s Schedule C included in her 2012 federal income tax return that she was a hair stylist who had nearly \$3,000 of income attributable to this side business. M.D. is not a hair stylist and did not know that the preparer put this information on her tax return when it was prepared. As a result of LBS falsely reporting this Schedule C income on M.D.'s Form 1040, LBS requested a bogus refund for M.D. in the amount of \$3,889 which included an EITC claim of over \$3,000.

94. Customer V.S. had her 2012 federal income tax return prepared at the LBS store located at 1100 Navaho Drive, Ste 124, Raleigh, North Carolina. V.S. provided her preparer with her Form W-2, Form 1099 which listed her unemployment compensation from the state, and the Social Security number for her dependents. V.S. did not have any self-employment income and did not own a business in 2012. Nonetheless, the LBS preparer falsely reported that V.S. had over \$14,000 in net income from a child care business. V.S. did tell the preparer that she watched kids from time to time, but did not tell the preparer if or how much she was paid to watch. As a

result of LBS reporting this fabricated income, LBS requested a bogus refund for V.S. in the amount of \$5,322 which included an EITC claim of over \$5,000.

Reporting False HSH Income

95. Reporting false Household Help income is another tactic commonly used by Scott and many of his managers and preparers to fraudulently increase customers' taxable income. Household Help ("HSH") income is paid to individuals typically hired to perform household work (e.g., maids, garners, etc.), and these individuals are considered employees of the person for whom they perform the household work. The employer determines and controls the work performed by the individual. The individual receiving the income may be paid in cash or non-cash benefits, on an hourly, weekly, or monthly basis, for jobs such as babysitting, house cleaning, yard work, health care, or driving. Individuals who receive HSH income are supposed to receive Forms W-2 reporting income received and taxes withheld, just like any other employment.

96. Scott and many of his managers and preparers prepare returns that report bogus HSH income on Line 7 of the Form 1040 tax return. IRS records do not show that Forms W-2 were issued by many, if not all, of the purported employers for LBS's customers for whom LBS reported HSH income.

97. For example, customer L.P. had her 2012 federal income tax return prepared at the LBS store located at 9863 S.W. 184 St. Miami, Florida. The LBS preparer falsely reported on Line 7 of L.P.'s 2012 Form 1040 tax return that she had HSH income in the amount of \$15,942. Also, during an examination of L.P.'s the IRS determined that L.P. did not have a Form W-2 or any other documentation supporting the income LBS reported on her tax return. Indeed, L.P. did not tell the LBS preparer that she had any income that could be HSH income, and did not

provide the \$15,942 figure to the preparer. As a result of this fabricated income, LBS claimed a bogus refund in the amount of \$7,177 which included an EITC in the amount of \$5,236.

98. Also, customer I.L. had her 2012 federal income tax return prepared at the LBS store located at 9863 S.W. 184 St. Miami, Florida. I.L. did not provide any documents to the LBS preparer, told the preparer that she was not working and relied on food stamps and the father of her children for support, and asked if the preparer could file her taxes based on that information. The LBS preparer told I.L. that she could file. The LBS preparer falsely reported that I.L. had \$15,786 in HSH income. As a result of this fabricated income, LBS claimed a bogus refund in the amount of \$7,236 which included an EITC in the amount of \$5,236.

Bogus Schedule A Deductions

99. Reporting bogus Form Schedule A deductions is another tactic commonly used by Scott and many of his managers and preparers to fraudulently reduce customers' taxable income. As with bogus Schedule C business losses, the bogus Schedule A deductions are typically reported on the tax returns of customers who have over \$24,000 in wage income reported on Forms W-2.

100. Scott and many of his managers and preparers often prepare tax returns for customers which include false claims for purported unreimbursed employee business expenses. Section 162 of the Internal Revenue Code governs trade or business expenses. These returns often claim deductions for fabricated, fraudulently inflated, and/or non-qualifying business expenses. IRS Publication 529 (which is readily available and easy to understand) provides examples of qualifying business expenses, including "Union dues and expenses" and "Work clothes and uniforms if required and not suitable for everyday use." *See* IRS Publication 529 (2013) (available online at: <http://www.irs.gov/publications/p529/ar02.html>). Publication 529

also provides examples of expenses that do not qualify as business expenses, including “Commuting expenses,” “Lunches with co-workers,” “Meals while working late,” and “Personal, living, or family expenses.”

101. One LBS script instructs the preparer to ask specific questions to customers:

(SCHEDULE A QUESTIONS)

- HOW MUCH DID YOU SPEND ON GAS?
- DID YOU ATTEND CHURCH? (10% TITHES) OR -DID YOU GIVE TO ANY CHARITIES?
- DID YOU PURCHASE ANY WORK UNIFORM(S)?
- DID YOU PURCHASE ANY WORK SHOES?
- DID YOU PURCHASE ANY TOOLS?
- ANY MEDICAL OR DENTAL EXPENSES?
- WHAT WAS YOUR CELL PHONE BILL?

If customers respond, for example, that they drove to and from work, LBS and many of its managers and preparers then claim a non-qualifying expense for commuting on the customers' returns. If customers respond that they attend church, LBS and many of his managers and preparers claim that the customers made charitable contributions, even if they did not. LBS and many of its managers and preparers thus push customers to provide information that LBS and many of its managers and preparers can manipulate to make bogus claims on customers' tax returns.

102. The LBS training “test” specifically instructs preparers that “Schedule A should only be used when the taxpayer has an outstanding income of 24,000 [dollars] or higher.” Scott and many of his managers and preparers frequently report on Forms Schedule A that customers had qualifying expenses such as medical expenses, state and personal property taxes, charitable contributions, and unreimbursed employee expenses, such as mileage, when the customer had no such expenses.

103. For example, customer A.A. had his 2012 federal income tax return prepared at the LBS store located at 4329 University Blvd. South, Jacksonville, Florida. In 2012, A.A. received wages from his employer, totaling \$40,050. LBS falsely reported on the Schedule A attached to A.A.'s tax return that he had itemized deductions totaling \$33,290. This included inflated charitable contributions (\$12,588). Despite the preparer reporting over \$12,000 in charitable contributions, A.A. only tithed about \$3,000 to his church. A.A. does not know how the preparer determined \$12,000 and did not provide a tithing statement to the preparer. In addition to falsely inflating A.A.'s charitable contributions, the preparer reported over \$20,000 in bogus unreimbursed employee business expenses. While A.A. does not recall if the preparer asked him about any unreimbursed employee business expenses, A.A. is reimbursed by his employer for using his car to drive to different job sites. Nonetheless, the preparer reported that A.A. had over 24,000 in business miles which corresponded to over \$13,000 in unreimbursed employee vehicle expenses. As a result of these falsely inflated and fabricated deductions, LBS claimed a bogus refund in the amount of \$2,752 on A.A.'s tax return.

104. Customers V.T. and her husband had their 2012 federal income tax returns prepared at the LBS store located at 4329 University Blvd. South, Jacksonville, Florida. The LBS preparer advised V.T. and her husband that it would be a good idea to file their returns separately; however, claim that their filing status were each as Head of Household rather than Married Filing Separately. Aside from commuting to her job, V.T. had no other travel related to her work and had no business meals to claim. Nonetheless, LBS falsely reported on the Schedule A attached to V.T.'s tax return that she had itemized deductions totaling \$12,792 and nearly this entire sum was comprised of bogus unreimbursed employee expenses. Included in these bogus employee expenses were vehicle expenses in amount of \$8,478. To support this

bogus amount, LBS claimed that V.T. drove 30,550 miles with her vehicle in 2012 with exactly half, 15,275, attributable to business miles. In addition to the false mileage claim, LBS reported that V.T. had parking fees and tolls (\$1,200), overnight travel expenses (\$1,025) and meals (\$1,500). As a result of these fabricated deductions, LBS claimed a bogus refund in the amount of \$4,244 including an EITC claim of \$2,797 on V.T.'s tax return.

105. Scott and many of his managers and preparers commonly improperly deduct vehicle expenses on the Forms Schedule A attached to customers' returns. In fact, LBS's training "test" lists "Auto Expense" as one of the "4 forms that can get the client the maximum refund." Forms Schedule A and C are also among those listed forms for maximum refunds.

106. Scott and many of his managers and preparers frequently report that a customer used a personal vehicle for a business purpose and that the customer drove tens of thousands of miles for work. In reality, the majority of this purported mileage is for commuting from home to work, which is not a qualifying vehicle expense. Scott and many of his managers and preparers also inflate the actual mileage that the customer drives each day to and from work. Therefore, not only are Scott and many of his managers and preparers claiming an improper, non-qualifying expense, but they are falsely inflating the mileage number in order to further increase the bogus deduction on customers' tax returns.

107. In addition to the examples provided in paragraphs 103 and 104, above, customer C.-L.W. had her 2012 federal income tax return prepared at the LBS store located at 4329 University Blvd. South, Jacksonville, Florida. The LBS preparer falsely claimed on the Schedule A attached to C.-L.W.'s tax return \$56,246 in unreimbursed employee business vehicle expenses, based on a purported 93,312 miles driven for business in 2012. The preparer falsely claimed that these miles represented only 50% of the vehicle's total use in 2012 between

personal and business travel. Even if commuting expenses were deductible (they are not), the preparer still overstated her mileage because C.-L.W. does not drive her car to work. At a deductible rate of 55.5 cents per mile, that overstatement increased the already fraudulent deduction by \$51,788 (to be clear, the entire phony amount of \$56,246 was for an ineligible expense). LBS also falsely reported that C.-L.W. made \$8,500 in charitable contributions in 2012. C.-L.W. did not give this information to the preparer and does not know how the preparer came up with that amount. As a result of these fabricated deductions, LBS claimed a bogus refund in the amount of \$6,006 including an EITC claim of \$3,323 on C.-L.W.'s tax return.

Bogus Education Credits

108. Another practice at Scott's LBS stores is fabricating education expenses and falsely claiming refundable education credits, including the American Opportunity Education Credit, on customers' federal income tax returns. Unlike many tax credits, a refundable tax credit entitles qualifying taxpayers to receive refunds even if they have no tax liability. Scott and many of his managers and preparers routinely and repeatedly claim false education credits on the tax returns of customers who did not attend college and had no qualifying education expenses, in order to fraudulently reduce their customers' taxable income and generate a larger bogus refund (and increasing the fees that they charge to customers).

109. For example, customer M.R. had her 2012 federal income tax return prepared at the LBS store located at 9560-2 Lem Turner Rd, Jacksonville, Florida. The LBS preparer claimed on M.R.'s return an American Opportunity education credit. M.R. did not tell the preparer to claim this education credit and did not know it was claimed on her return. M.R. did take some GED courses in 2012 at the Harris Institute but dropped out after three months and had no out of pocket costs for these classes. In addition to LBS falsely claiming an American

Opportunity education credit in the amount of \$921 on M.R.'s tax return, the preparer fabricated a Schedule C business called M Home Care Service. On this Schedule C, the LBS preparer falsely reported in \$7,809 in net income which boosted her income to support a false EITC claim in the amount of 3,169. As a result of these fabricated credits, LBS claimed a bogus refund in the amount of \$4,131 on M.R.'s tax return.

110. In addition, N.K. had his 2011 federal income tax return prepared at the LBS store located at 4329 University Blvd. South, Jacksonville, Florida. The LBS falsely claimed an American Opportunity Credit in the amount of \$846. N.K. did not tell the LBS preparer to claim this credit and did not know it was reported on his return.

Reporting Inflated Tax Withholdings

111. Scott and many of his managers and preparers also prepare tax returns on which they falsely reports that an inflated amount of income tax was withheld from the customers' wages. Because this withholding amount is bogus, it does not match the actual amount of taxes withheld from the customer's pay as reported on the Form W-2 issued by the customers' employer(s). As a result, the LBS-prepared tax return requests a refund of this additional tax purportedly withheld, causing a bogus refund of tax that was never actually withheld from the customers' wages.

112. For example, customer G.N. had her 2012 federal income tax return prepared at the LBS store located at 4329 University Blvd South, Jacksonville, Florida. G.N. provided LBS with a copy of her Form 1099-R which listed the amount her pension received (\$25,626) and income taxes withheld (\$3,050). LBS correctly reported on the tax return that G.N. received \$25,626 from her pension; however, LBS falsely reported that G.N. earned nearly the same amount as wages (\$25,385). In essence the LBS preparer doubled the amount of G.N.'s alleged

income. Likewise, LBS doubled the amount of income taxes withheld from G.N.'s income; rather than correctly report \$3,050 withheld, LBS falsely reported \$6,100 was withheld. The LBS preparer then falsely reported \$28,163 in Schedule C deductions for a non-existent cleaning business. In reality, G.N. had no such business and did not tell her preparer she had a business. Also, the preparer falsely reported that G.N. had \$13,589 in charitable contributions when G.N. only tithed 10% of her income to her church in 2012. Not only did LBS falsely report an additional \$3,050 in income tax withheld on G.N.'s tax return, LBS falsely reported deductions which resulted in G.N. receiving a refund of her actual withholding (\$3,050) plus the fabricated withholding (\$3,050).

Improperly Preparing and Filing Returns based on Pay Stubs

113. Scott and many of his managers and preparers also prepare and file federal income tax returns using customers' end-of-year pay stubs and then file their customers' tax returns without valid Forms W-2. In other instances, an IRS Form 4852, "Substitute for Form W-2," is attached to customers' returns, which falsely claims that the employer did not timely issue a Form W-2. In reality, the returns are prepared before the end of the tax year and/or before an employer even has the ability to issue a Form W-2 for that year.

114. Federal tax returns for wage earners must be prepared using Forms W-2. Using pay stubs to prepare and file tax returns is improper and violates IRS rules. Moreover, end-of-year pay stubs frequently omit income and distributions that are shown on employer-issued Forms W-2. Thus, preparing and filing federal income tax returns based on information from end-of-year pay stubs inevitably results in errors and omissions on federal tax returns, which necessarily interferes with the administration and enforcement of the internal revenue laws.

Scott and many of his managers and preparers know that using paystubs to prepare and file returns violates IRS rules and regulations because in order to participate in the IRS's electronic filing program, all electronic filers, including those at Scott's LBS stores, must acknowledge that they will comply with the IRS's requirements, which expressly prohibit filing returns prepared with pay stubs and without genuine Forms W-2. IRS Publication 1345 also mandates that electronic filers "must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R."

115. LBS begins soliciting customers in December of each year by falsely telling customers that their returns can be prepared using their most recent paystub. LBS's stores open on December 26, before the end of the tax year, before customers know how much income they earned and taxes they owe for the year, and before employers are able to issue Forms W-2 to their employees. Forms W-2 are not available to employees before the end of the calendar tax year, and tax returns cannot be filed before January of the processing year.

116. The "presentation script" that employees are trained to recite to prospective customers specifically instructs the employee to tell the potential customer to bring in their paystub to have their tax return prepared.

117. LBS customers fill out a taxpayer personal information sheet, which identifies the customer's name, address, social security number, and dependent information. The customers often complete these forms in December or early January, and because their employers have not yet issued Forms W-2, LBS uses the customers' most recent pay stub to prepare tax returns and create fake Forms W-2. LBS instructs its employees to retain the original pay stub in the customer files and to not file the pay stub with the IRS. LBS stores even maintain a separate

storage bin for files of customers whose returns were prepared using a pay stub rather than a Form W-2.

118. Scott and many of his managers and preparers know that preparing tax returns based on paystubs violates IRS rules and regulations. As previously mentioned, DSMs serve as EROs for the store they manage and have EFINs to electronically file returns. IRS Publication 1345 also mandates that “EROs must not electronically file individual income tax returns prior to receiving Forms W-2, W-2G or 1099-R.”

119. The power point presentation that LBS shows at its training sessions instructs employees to tell potential customers: “Yes, we do last paycheck stubs. Come to our office and we will take care of you!” The presentation also warns employees not to file the actual paystub with the IRS because “your EFIN will be SUSPENDED and you will be DROPPED!!” Thus, LBS encourages the pay stub filing practice, but simply instructs its employees not to get caught.

120. Instead of filing the pay stub, the LBS training “test” specifically instructs preparers that a “Form 4852 is used for all last pay stub clients.” Form 4852 is a Substitute for Form W-2 that is properly used when an employer does not issue a Form W-2 to the employee. It is not permissible to use a Form 4852 if a Form W-2 is or will be issued; the Form 4852 itself lists the possible penalties for improper use.

121. By preparing tax returns before the end of the tax year, Scott and LBS unfairly solicit business before competitors.

122. For example, customer G.G. had her 2012 federal income tax return prepared at the LBS store located at 4329 University Blvd South, Jacksonville, Florida. G.G. provided LBS with a copy of her most recent paystubs from her two employers. G.G. had not received her Form W-2 for either of her employers at the time LBS filed her return. The LBS preparer did not

ask her to provide LBS with a Form W-2. The LBS-prepared return understated G.G.'s wages by over \$3,000. Despite this fraudulent understatement of wages, the LBS preparer fabricated Schedule C income in the amount of \$9,960. The LBS preparer falsely reported that G.G. earned this income as a hairdresser. G.G. did not have any other income besides what she earned at her two jobs and is not a hairdresser. As a result of LBS falsely claiming Schedule C income, G.G. received a bogus refund in the amount of \$6,242 which included an EITC claim in the amount of \$5,236.

Deceptive, Unconscionable, and Undisclosed Fees

123. Scott's LBS stores charge unconscionably high fees to prepare tax returns, mostly through added, deceptive fees. These fees are typically charged without customers' knowledge.

124. LBS intentionally deceives its customers regarding the fees charged for the preparation of tax returns.

125. The LBS training "test" specifically instructs employees to tell potential customers who call LBS asking what the charge is for preparing a tax return to respond with: "\$75. Would you like to set an appointment?" The "Telephone Script" instructing employees how to speak to a potential customer on the phone directs employees to respond to the question "How much do you charge?" with: "We charge \$75. You do not have to pay us up front; it will be deducted automatically from your refund."

126. However, the actual cost may be several hundred dollars or more depending on the forms and schedules attached to the tax return. LBS charges additional fees for each form and schedule (such as a Schedule C or a Form 8863 for an education credit) attached to the Form 1040 tax return. LBS charges separate fees for forms and schedules such as the electronic filing authorization (Form 8879) which is required for e-filing, the EITC qualifying child form

(Schedule EIC), and the related EITC due diligence checklist (Form 8867), which must be completed in connection with a claim for the EITC. These fees result in a total tax return preparation fee much higher than the \$75 advertised.

127. LBS also has so-called “999 charge weeks.” During these periods, Gachette and LBS franchisees encourage LBS stores to charge \$999 – or “as much as possible,” according to franchisee Douglas Mesadieu – for the preparation of tax returns that, at other times, would not result in such high fees. The sole purpose of “999 charge weeks” is to maximize the amount of revenue generated by LBS stores, and the high fees charged during these periods are not based on the difficulty or amount of time in preparing customers’ tax returns.

128. Customers must also pay the “service bureau” and “LBS transmittal” fees, totaling \$74, and fees to Drake software and EPS Financial (the refund processor) of \$7 and \$15 to \$20, respectively, in 2013. Thus, for a customer to have LBS prepare and e-file a basic federal income tax return (which is the appropriate return for the majority of customers), the actual bare minimum is far more than the \$75 advertised amount.

129. The high fees (and fee structure, which encourages the addition of unnecessary and often improper forms and schedules to the Form 1040) are a strong incentive for LBS to prepare and file fraudulent returns claiming excessive refunds based on bogus claims and associated forms and schedules.

130. Because LBS targets low-income individuals, the high fees frequently pose a significant financial hardship for its customers. Additionally, fees are unconscionable for the basic tax returns being prepared for these customers, who are often eligible for free tax return preparation and electronic filing elsewhere.

131. Scott and his LBS stores also routinely and intentionally fail to disclose to customers all fees charged. LBS trains its employees how to present forms to customers to sign, including a form acknowledging the fees charged, without allowing the customer to closely review or understand the forms they are signing. Alternatively, LBS tells customers one amount for fees and then later increases the fees without the customers' knowledge or consent. Customers are often surprised to learn that the refund requested on their return is hundreds if not thousands of dollars more than the refund amount that they received after the fees were deducted.

132. Customers often complain that they did not know in advance that they would be charged exorbitant fees. LBS provides its customers with the amount of the refund that they will be receiving, which is much less than the refund amount that was actually claimed on their tax return (which is not disclosed to customers at the time their tax returns are prepared). This is a recurring theme of complaints filed with the IRS and the Better Business Bureau, as well as local news reports regarding LBS locations across the country.

133. To the extent that customers are advised that additional fees may be charged per each additional form, they are not advised upon completion of the preparation of the tax return the total amount of those fees. If customers question the fee, LBS employees are instructed to tell the customer how much more money the preparer got the customer by adding additional forms to the tax return to increase the refund, and that, as the preparer stated in the initial "presentation script" each of those forms to get the customer more money back costs an additional fee.

134. LBS's fees are not paid by customers at the time of the preparation of their tax returns, but instead are subtracted from the customers' tax refund. By doing so, LBS is able to conceal from unsuspecting customers the actual amount that the customers pay to have their tax

return prepared. Customers typically do not discover that LBS charged much more than the customers anticipated for the preparation of their tax return until the customers receive a refund that is much less than quoted by the tax return preparer because LBS had subtracted its high fees.

135. Tax refunds issued to customers are directed from the IRS to a third-party processor's bank account. The processor then deducts and transmits the fees owed to Gachette and Scott for preparing the tax returns. The remaining refund amount is then directed to the customer, through direct deposit or check. The check issued to the customer makes no reference to the amount of fees deducted, which makes it easy for LBS to conceal, inflate and/or lie about its fees.

136. For example, LBS told customer G.G., described above in paragraph 122, that the more deductions a preparer puts on a customer's return, the more money the preparer personally makes for preparing the return. The LBS preparer did not tell G.G. how much she was charged by LBS for preparing her return. Based upon documents LBS provided to the IRS, LBS charged G.G. \$946.

137. In addition, LBS told customer D.R. that her tax return preparation fee would be around \$400. However, based on the documents LBS provided to the IRS, LBS charged D.R. \$1,063 to prepare her return. Like other LBS customers, described above, the LBS preparer falsely reported over \$13,000 Schedule C business income on D.R.'s 2012 return attributable to a babysitting business. Though D.R. did babysit family members occasionally, she only made about \$100 every two weeks. As a result of LBS reporting this false income, LBS claimed a bogus refund in the amount of \$6,778 including an EITC claim in the amount of \$5,891.

138. LBS's practice of charging unconscionable and undisclosed fees violates consumer protection laws.

**Failure to Provide Customers with Copies of their Completed Tax Returns
in Violation of 26 U.S.C. § 6701(a)**

139. Scott and many of his managers and preparers commonly fail to provide customers with copies of their completed tax returns. The completed tax return, filed with the IRS, shows the refund that LBS is claiming for the customer. By giving a copy of the tax return to the customer, the customer is able to determine the amount of fees charged by LBS by subtracting the amount of the refund that the customer actually receives from the amount of the refund claimed on the tax return. LBS's failure to provide a copy of a customer's completed tax return is part of LBS's strategy to conceal its actual fees from its customers.

140. Failing to provide a customer with a copy of the completed tax return also violates 26 U.S.C. § 6107(a), which requires that a tax return preparer "shall furnish a completed copy of [a tax return or claim for refund] to the taxpayer not later than the time such return or claim is presented for such taxpayer's signature."

141. LBS's training "test" states that employees should provide a customer with a copy of the customer's tax return, but "Only if we will be E-filing the same day or if we have already E-filed." In reality, LBS customers do not receive copies of their tax returns, particularly those whose returns are prepared based on a pay stub days or weeks before the IRS even begins to accept filed tax returns. The answer to the LBS "test" question about whether to "give customers their copies of their 1040 tax papers" on January 5, 2013 is simply "NO."

142. Not only does LBS not provide a copy of the completed tax return to customers at the time it is prepared, but it fails to provide a copy after electronically filing the return, and also refuses to provide a copy later on the customer's demand.

143. For example, the following customers (discussed above) told the IRS that LBS did not provide them with a copy of their completed 2012 federal income tax return: A.M. (§192), N.K. (§110), and G.N. (§112).

**Examples of the Widespread and Common Fraud at
Scott's LBS Tax Services Locations**

144. Interviews of a random sampling of customers of Scott's LBS stores, and reviews of those customers' tax returns, illustrate the pervasive fraudulent activity described in this complaint. The IRS interviewed over 130 customers whose returns were prepared at those stores. In addition to the customers described above, the following examples show the rampant fraud.

145. Customer M.J. was approached by an LBS tax preparer from one of Scott's stores at a flea market and asked if she had income and whether she filed her tax return. M.J. told the preparer that she does not file tax returns and sometimes babysits kids for friends. The preparer then told M.J. that meant she had a business and had to file a tax return. M.J. disagreed but agreed to file a tax return with LBS after the preparer told her that she was wrong, showed her a badge, said he was a police officer, and told her that he would not do anything that was wrong. This same preparer signed M.J.'s 2012 federal income tax return as the paid preparer. The preparer reported on the Schedule C included on this return that M.J. had a business called M.'s Childcare. The preparer also reported that this was a daycare business with over \$10,000 in net income for 2012. M.J. did not have nearly this much income from babysitting because she only watched her friends' kids occasionally and received \$50 each time or \$100 if it was overnight. As a result of the preparer falsely reporting that M.J. had over \$10,000 in income for a childcare

business, LBS requested a bogus refund for M.J. in the amount of \$2,889 which included a fraudulent claim for the EITC.

146. Customer K.B. had her 2012 federal income tax return prepared at the LBS store located at 1722 Broad River Rd. Ste G, Columbia, South Carolina. Although K.B. told the preparer that she sometimes styled hair, the preparer decided that K.B. was a dancer and talked her into signing a form stating that she had a self-employment business as a dancer. On the Schedule C attached to K.B.'s federal income tax return, the preparer falsely reported that K.B. was an entertainer and had a business called K Entertainment. In addition, the preparer falsely reported \$14,652 in net income. As a result of these fabrications, LBS requested a bogus refund for K.B. in the amount of \$5,684 which included a fraudulent claim for the EITC.

147. Customer B.H. had her 2012 federal income tax return prepared at the LBS store located on 5146 Normandy Blvd. Jacksonville, Florida. B.H chose LBS because she while she was driving she saw a woman on the road with a sign that promised \$25 for having a return prepared. B.H. stopped her car to ask the woman to explain how B.H. could get the \$25. B.H. told the woman that she did not have a Form W-2 or a job. The woman asked if B.H. ever styled hair or babysat. B.H. said she styled hair to which the woman asked if B.H. kept receipts; however, B.H. told her that she did not. The woman replied that this was okay. B.H. told her LBS preparer that she only styled hair occasionally and made less than \$100. Despite this information, LBS falsely reported that B.H. had over \$10,000 in net income on her Schedule C. As a result, B.H. received a bogus refund of \$2,891 which included a fraudulent claim for the EITC. From this refund, LBS extracted fees in the amount of \$846.

148. Customer L.P., described above in paragraph 97, was told by her LBS preparer that the cost to prepare her return was \$980 plus additional fees which totaled \$1,200. L.P.

refused to allow LBS to file her 2012 return in response to hearing this exorbitant fee. The LBS preparer told her that: LBS had filed the return, the IRS had accepted it, and L.P. had to sign LBS's documents.

Investigations, Lawsuits, and Penalties Have Not Deterred the Defendant

149. Despite knowing of the widespread and pervasive fraudulent conduct surrounding his tax return preparation business, the IRS's examinations of customers' tax returns and assessment of penalties against Scott for failing to comply with the due diligence requirements, lawsuits filed against LBS by the State of Texas and H & R Block, and the well-publicized complaints, including those by the Better Business Bureau, online consumer protection sites, and various local media outlets throughout the country, Scott has not taken any meaningful steps to stop the fraud.

150. In fact, the only apparent change in 2014 is that several LBS stores began doing business under different names. Indeed, Scott has changed his tax preparation LLC from Neighborhood Tax Pros to Tax Giant. And even though Scott's stores are now called Tax Giant instead of LBS, in actuality, nothing has changed.

151. For example, customer A.R. had her 2012 federal income tax return prepared at the LBS store located at 501 W. Palm Dr. Homestead, Florida. On A.R.'s 2012 return, an LBS preparer reported that she had HSH income in the amount of \$16,064. The next year, A.R. returned to the same location to have her 2013 tax return prepared. On A.R.'s 2013 return, a Tax Giant preparer also reported that A.R. had HSH income in the amount of \$14,590. A.R. later told the IRS that she had no HSH income in 2012 or 2013. As a result of Scott's preparers falsely reporting HSH income for A.R. for each of these years, she received bogus refunds in the

amount of \$7,196 for 2012 and \$7,372 for 2013. Included in each of these bogus refund claims were EITC claims in excess of \$5,000.

152. To the extent that Scott claims that he does not know of the fraud committed by his LBS stores, his ignorance is deliberate, and he, in furtherance of his own greed, intentionally ignores and turns a blind eye to complaints documenting LBS's fraudulent practices.

153. Scott has little incentive to stop the wrongdoing because he directly profits from the misconduct at his LBS stores by taking a percentage of all gross revenues. Accordingly, Scott promotes a culture of greed that favors volume and profits over accuracy and integrity, and creates an environment where fraudulent tax return preparation and violations of federal tax laws flourish.

Harm Caused by the Defendant

154. Scott's knowledge and encouragement of fraud at his tax return preparation stores, false and misleading statements directed to customers and potential customers, and culture favoring volume and profits over accuracy and integrity, has harmed the public and the United States Treasury. Scott and many of his managers and preparers prepare false or fraudulent tax returns that understate their customers' correct income tax liabilities and illegally cause customers to incorrectly report their federal tax liabilities and underpay their taxes.

155. The fraudulent practices of Scott and many of his managers and preparers harm the United States Treasury in the form of lost tax revenue. For instance, the IRS randomly sampled 220 customers whose 2012 tax returns were prepared at LBS stores that Scott owned in the Jacksonville metropolitan area. The IRS interviewed 111 taxpayers and reviewed their LBS-prepared tax returns. The IRS determined that the compliance rate (the number of returns with no errors) from this sample was a mere 4.3%; therefore, 95.7% of the returns that the IRS

reviewed as part of this sample contained errors, with an average tax deficiency of \$2,861 per return. Based on this random sampling and statistical analysis, the IRS estimates that the tax loss from Scott-owned LBS stores in the Jacksonville metropolitan area for tax year 2012 alone could be as much as \$4.5 million or more.

156. Scott's customers have also been harmed because they relied on LBS to prepare proper tax returns. Instead, customers' tax returns substantially understated their correct tax liabilities after paying unconscionably high fees to have their tax returns prepared. As a result, many customers, who are often low-income taxpayers, now face large income tax debts and may be liable for sizeable penalties and interest.

157. Customers are harmed by the unconscionably high and frequently undisclosed tax preparation fees and related bogus fees tied to anticipated tax refunds. These fees are subtracted from the erroneous refunds that result from LBS's fraudulent tax return preparation. When the IRS conducts audits or examinations of customers and seeks repayment of these erroneous refunds, the customers are liable for the repayment of those refunds. Not only do customers face the hardship associated with repayment of erroneous refunds resulting from LBS's culture of greed at others' expense, but customers may also have to repay the portion of the refund that LBS subtracted for its high fees. Customers may also have to pay additional fees to other tax return preparers who will file correct, accurate amended tax returns to correct the fraudulent tax returns that LBS prepared and filed.

158. Other customers are harmed by LBS's fraudulent practices because they have lost or become ineligible for federal and/or state benefits due to the false claims that LBS made on their tax returns.

159. Scott's misconduct further harms the United States and the public by requiring the IRS to devote scarce resources to detecting the fraud and assessing and collecting lost tax revenues from defendants' customers. IRS employees have spent thousands of hours conducting audits or reviewing tax returns prepared by LBS and interviewing hundreds of customers. In addition, IRS employees have devoted still more time making compliance visits to various franchises. Consequently, identifying and recovering all lost tax revenues resulting from LBS's fraudulent and illegal activities may be impossible.

160. Scott's conduct also harms honest tax return preparers who refuse to engage in such illegal conduct. Honest tax return preparers unfairly lose business to LBS as a result of LBS's willingness to break the law. Customers often have their returns prepared with paystubs at LBS because law-abiding preparers do not prepare a tax return without an employer-issued Form W-2. Customers also have their returns prepared at LBS because LBS promises the maximum refund, and delivers by fabricating claims and deductions on customers' returns.

161. Finally, Scott's misconduct harms the public at large by undermining public confidence in the federal tax system and encouraging widespread violations of the internal revenue laws.

162. The harm to the government and the public will increase unless Scott is enjoined because—given the seriousness and pervasiveness of their illegal conduct—without an injunction, Scott is likely to continue enabling the preparation of false and fraudulent federal income tax returns for customers. The number of Scott-owned LBS stores has increased exponentially over the past 3 years, going from 5 stores in 2013 to at least 30 in 2013, and LBS's stated goal for total stores is 1,000 by 2016. An injunction will serve the public interest because

it will put a stop to Scott's illegal conduct and the harm that such conduct causes the United States and its citizens.

Count I
Injunction under I.R.C. § 7407

163. Section 7407 of the I.R.C. authorizes a district court to enjoin a tax return preparer from engaging in conduct subject to penalty under I.R.C. § 6694 or § 6695. Additionally, if the court finds that a preparer has continually or repeatedly engaged in such conduct, and the court further finds that a narrower injunction (i.e., prohibiting only that specific enumerated conduct) would not be sufficient to prevent that person's interference with the proper administration of the internal revenue laws, the court may enjoin the person from further acting as a tax return preparer. The prohibited conduct justifying an injunction includes, among other things, the following:

- a. Engaging in conduct subject to penalty under I.R.C. § 6694(a), which penalizes a return preparer who prepares a return or claim for refund that contains an unreasonable position and the return preparer knew (or reasonably should have known) of the position;
- b. Engaging in conduct subject to penalty under I.R.C. § 6694(b), which among other conduct, penalizes a return preparer who recklessly or intentionally disregards IRS rules or regulations;
- c. Engaging in conduct subject to penalty under I.R.C. § 6695(g), which penalizes a return preparer who fails to comply with the statutory due diligence requirements;
- d. Guaranteeing the payment of any tax refund or the allowance of any tax credit; or
- e. Engaging in any other fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws.

164. Section 7701(a)(36) of the I.R.C. defines tax return preparer to include not only the individual who physically prepares a tax return for compensation, but also anyone “who employs one or more persons” to prepare tax returns for compensation.

165. Scott, as shown above in paragraphs 1 through 162, is a tax return preparer who has repeatedly and continually prepared or submitted returns or portions of returns (or employed or managed others who prepared or submitted returns or portions of returns) that contain unreasonable positions and substantially understate the liability for tax on the return. Scott also advises, instructs, directs, and causes his managers, preparers, and employees to engage in tax fraud, and to prepare federal income tax returns asserting unreasonable, unrealistic, frivolous and fraudulent positions. Accordingly, Scott knew (or reasonably should have known) of the unreasonable, unrealistic, frivolous and fraudulent positions.

166. Scott and those acting in concert with him and at his direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6694 by preparing federal tax returns that understate his customers’ liabilities based on unrealistic, frivolous and reckless positions. Scott, through the actions described above, recklessly or intentionally disregards IRS rules or regulations.

167. Scott and those acting in concert with him and at his direction have continually and repeatedly engaged in conduct subject to penalty under I.R.C. § 6695. The Treasury regulations promulgated under I.R.C. § 6695(g) prohibit a return preparer from claiming the EITC without first conducting proper due diligence and documenting his or her compliance with the due diligence requirements. *See* 26 C.F.R. § 1.6995-2 (2011). Scott advises, encourages, and causes his managers, preparers, and employees to circumvent these due diligence requirements and to ignore or disregard the information provided by customers.

168. Scott's failure to comply with the due diligence requirements for the EITC violates Treasury Regulations and his willingness to falsify information to obtain the EITC for his customers shows a reckless and/or intentional disregard of IRS rules and regulations.

169. Scott and those acting in concert with him and at his direction have continually and repeatedly prepared federal income tax returns that claim the EITC for customers where he and those acting in concert with him and at his direction have not conducted, let alone documented, the required due diligence procedures.

170. Scott also fails to comply with I.R.C. § 6695(a), which requires that a tax return preparer provide a copy of the completed tax return to the taxpayer.

171. Scott's continual and repeated violations of I.R.C. §§ 6694 and 6695 fall within I.R.C. § 7407(b)(1)(A), and thus are subject to an injunction under I.R.C. § 7407.

172. Scott's continual and repeated fraudulent or deceptive conduct that substantially interferes with the proper administration of the internal revenue laws falls within I.R.C. § 7407(b)(1)(D), and thus is subject to an injunction under I.R.C. § 7407.

173. Scott and those acting in concert with him and at his direction have continuously and repeatedly guaranteed refunds to customers and guaranteed the allowance of tax credits, including but not limited to the EITC. This conduct falls within I.R.C. § 7407(b)(1)(C), and thus is subject to an injunction under I.R.C. § 7407.

174. If Scott is not enjoined from all tax preparation, he and those acting in concert with him and at his direction are likely to continue to prepare and file false and fraudulent tax returns.

175. Scott's continual and repeated conduct subject to an injunction under I.R.C. § 7407, including his continual and repeated fabrication of expenses and deductions, is so

flagrantly illegal and so egregious that it demonstrates that a narrow injunction prohibiting only specific conduct would be insufficient to prevent Scott's interference with the proper administration of the internal revenue laws. Accordingly, Scott should be permanently barred from acting as a federal tax preparer, and from owning, operating, managing, controlling, licensing, franchising, or working for a tax return preparation business.

Count II
Injunction under I.R.C. § 7408

176. Section 7408 of the I.R.C. authorizes a district court to enjoin any person from engaging in conduct subject to penalty under either I.R.C. § 6700 or § 6701 if injunctive relief is appropriate to prevent recurrence of such conduct.

177. Section 6701(a) of the I.R.C. penalizes any person who aids or assists in, procures, or advises with respect to the preparation or presentation of a federal tax return, refund claim, or other document knowing (or having reason to believe) that it will be used in connection with any material matter arising under the internal revenue laws and knowing that if it is so used it will result in an understatement of another person's tax liability. Under I.R.C. § 6701(c)(1), the term "procures" includes "ordering (or otherwise causing) a subordinate to do an act," as well as "knowing of, and not attempting to prevent, participation by a subordinate in an act."

178. Scott, through the actions detailed above in paragraphs 1 through 162, caused the presentation and preparation of false, fraudulent, and abusive tax returns and other documents. Scott prepares, assists, and/or advises with respect to the presentation and preparation of federal tax returns for customers that he knows will understate their correct tax liabilities, because Scott knowingly prepares, assists, and/or advises with respect to the presentation and preparation of returns claiming bogus expenses and deductions. Scott procured and assisted the preparation of

false and fraudulent tax returns by encouraging the filing of tax returns he knew were false or fraudulent, and by employing, training, and supervising tax return preparers engaging in tax fraud. Scott's conduct is thus subject to a penalty under I.R.C. § 6701.

179. In addition, Scott has not altered his behavior despite being previously warned and assessed penalties for similar conduct. Scott is likely to continue violating the law absent an injunction. Tax return preparation is Scott primary source of revenue. To maximize that income, Scott instructs and directs his managers and preparers to prepare fraudulent returns. That fraudulent conduct, in turn, gives Scott a competitive edge over law-abiding preparers. It also provides a means for Scott to further exploit his customers by charging them unconscionably high fees, while Scott fraud simultaneously and callously exposes his customers to possible civil and criminal liability.

180. If the Court does not enjoin Scott, he is likely to continue to engage in conduct subject to penalty under I.R.C. § 6701. Scott's, and those acting in concert with him and at his direction, preparation of returns claiming improper expenses and deductions is widespread over many customers and tax years. Injunctive relief is therefore appropriate under I.R.C. § 7408.

Count III
Injunction and Disgorgement under I.R.C. § 7402(a)
Necessary to Enforce the Internal Revenue Laws

181. Section 7402 of the I.R.C. authorizes a district court to issue orders of injunction as may be necessary or appropriate for the enforcement of the internal revenue laws.

182. Scott, through the actions described above in paragraphs 1 through 162, including, but not limited to, intentionally understating his customers' tax liabilities, and charging unconscionable and undisclosed fees for the preparation of federal tax returns that intentionally

understate their customers' tax liabilities, has engaged in conduct that substantially interferes with the enforcement of the internal revenue laws.

183. Unless enjoined, Scott and those acting in concert with him and at his direction are likely to continue to engage in such improper conduct and interfere with the enforcement of the internal revenue laws. If Scott is not enjoined from engaging in fraudulent and deceptive conduct, the United States will suffer irreparable injury by wrongfully providing federal income tax refunds to individuals not entitled to receive them.

184. While the United States will suffer irreparable injury if Scott is not enjoined, Scott will not be harmed by being compelled to obey the law.

185. Enjoining Scott is in the public interest because an injunction, backed by the Court's contempt powers if needed, will stop Scott's illegal conduct and the harm it causes the United States and to his customers.

186. The Court should impose injunctive relief under 26 U.S.C. § 7402(a).

187. Scott's conduct, which substantially interferes with the enforcement of the internal revenue laws, caused the United States to issue tax refunds to individuals not entitled to receive them, and Scott have unjustly profited at the expense of the United States by subtracting his exorbitant fees from those refunds.

188. The Court should enter an order under 26 U.S.C. § 7402(a) requiring Scott to disgorge to the United States the proceeds that Scott and his businesses received for the preparation of federal tax returns that make false or fraudulent claims.

WHEREFORE, the United States of America prays for the following:

A. That the Court find that Demetrius Scott has continually and repeatedly engaged in conduct subject to penalty under I.R.C. §§ 6694 and 6695, and has continually and repeatedly

engaged in other fraudulent or deceptive conduct that substantially interferes with the administration of the tax laws, and that a narrower injunction prohibiting only this specific misconduct would be insufficient;

B. That the Court, pursuant to I.R.C. § 7407, enter a permanent injunction prohibiting Demetrius Scott from acting as a federal tax return preparer;

C. That the Court find that Demetrius Scott has engaged in conduct subject to penalty under I.R.C. § 6701, and that injunctive relief under I.R.C. § 7408 is appropriate to prevent a recurrence of that conduct;

D. That the Court find that Demetrius Scott has engaged in conduct that interferes with the enforcement of the internal revenue laws, and that injunctive relief is appropriate to prevent the recurrence of that conduct pursuant to the Court's inherent equity powers and I.R.C. § 7402(a);

E. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter a permanent injunction prohibiting Demetrius Scott, and all those in active concert or participation with him, from:

- (1) acting as a federal tax return preparer or requesting, assisting in, or directing the preparation or filing of federal tax returns, amended returns, or other related documents or forms for any person or entity other than himself;
- (2) preparing or assisting in preparing federal tax returns that he knows or reasonably should have known would result in an understatement of tax liability or the overstatement of federal tax refund(s) as penalized by I.R.C. § 6694;
- (3) owning, operating, managing, working in, controlling, licensing, consulting with, or franchising a tax return preparation business;

- (4) training, instructing, teaching, and creating or providing cheat sheets, memoranda, directions, instructions, or manuals, pertaining to the preparation of federal tax returns;
- (5) engaging in any other activity subject to penalty under I.R.C. §§ 6694, 6695, 6701, or any other penalty provision in the I.R.C.; and
- (6) engaging in any conduct that substantially interferes with the proper administration and enforcement of the internal revenue laws.

F. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Demetrius Scott to immediately and permanently close, because of the pervasive fraud, all tax return preparation stores that he owns directly or through Neighborhood Tax Pros, LLC, and Tax Giant, LLC, or any other entity, and whether those stores do business as LBS Tax Services or under any other name;

G. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order appointing a receiver to sell all of the hard assets, such as computers (after any and all taxpayer information has been removed), electronics, and furniture, for all tax return preparation stores that Demetrius Scott owns directly or through Neighborhood Tax Pros, LLC, and Tax Giant, LLC, or any other entity, and whether those stores do business as LBS Tax Services or under any other name;

H. That the Court, pursuant to I.R.C. § 7402(a), enter an order prohibiting Demetrius Scott, directly or through Neighborhood Tax Pros, LLC, and Tax Giant, LLC, or any other entity, from assigning, transferring, or selling any franchise agreement, independent contractor agreement, or employment contract related to LBS Tax Services or any other tax return preparation business to which he or any entity under his control is a party;

I. That the Court, pursuant to I.R.C. § 7402(a), enter an order barring Demetrius Scott from: (1) selling to any individual or entity a list of customers, or any other customer information, for whom Demetrius Scott, LBS Tax Services, and any other business or name

through which Scott or those acting at his direction have at any time since 2009 prepared a tax return; (2) assigning, disseminating, providing, or giving to any current or former franchisee, General Sales Manager, District Sales Manager, manager, tax return preparer, employee, or independent contractor of Scott, LBS Tax Services, or any other business through which Scott prepares tax returns or owns or franchises a tax return preparation business, a list of customers or any other customer information for customers for whom Demetrius Scott, LBS Tax Services, and any other business or name through which Scott or those acting at his direction have at any time since 2009 prepared a tax return; and (3) selling to any individual or entity any proprietary information pertaining to LBS Tax Services and any other business or name through which Scott or those acting at his direction have at any time since 2009 prepared a tax return;

J. That the Court, pursuant to 26 U.S.C. § 7402, enter an order requiring Demetrius Scott to disgorge to the United States the proceeds (the amount of which to be determined by the Court) that Demetrius Scott, Neighborhood Tax Pros, LLC, and Tax Giant, LLC received (in the form of fees) for the preparation of tax returns that make or report false or fraudulent claims, deductions, credits, income, expenses, or other information that results in the understatement of taxes, prepared since 2012 at LBS Tax Services stores owned by Demetrius Scott, Neighborhood Tax Pros, LLC, and Tax Giant, LLC.

K. That the Court, pursuant to I.R.C. §§ 7402(a) and 7407, enter an order requiring Demetrius Scott to contact, within 30 days of the Court's order, by United States mail and, if an e-mail address is known, by e-mail, all persons for whom Demetrius Scott and his managers and preparers prepared federal tax returns or claims for a refund for tax years 2012 through 2014 to inform them of the permanent injunction entered against him, including sending a copy of the

order of permanent injunction but not enclosing any other documents or enclosures unless agreed to by counsel for the United States or approved by the Court;

L. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Demetrius Scott to produce to counsel for the United States, within 30 days of the Court's order, a list that identifies by name, social security number, address, e-mail address, and telephone number and tax period(s) all persons for whom Demetrius Scott and his managers and preparers prepared federal tax returns or claims for a refund for tax years beginning in 2012 and continuing through this litigation;

M. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an order requiring Demetrius Scott to produce to counsel for the United States, within thirty days of the Court's order, a list that identifies by name, address, e-mail address, and telephone number all principals, officers, managers, franchisees, employees, and independent contractors of LBS Tax Services, Neighborhood Tax Pros, LLC, and Tax Giant, LLC from 2009 to the present;

N. That the Court, pursuant to I.R.C. §§ 7402(a), 7407, and 7408, enter an injunction requiring Demetrius Scott to provide a copy of the Court's order to all principals, officers, managers, franchisees, employees, and independent contractors of LBS Tax Services, Neighborhood Tax Pros, LLC, and Tax Giant, LLC within fifteen days of the Court's order, and provide to counsel for the United States within 30 days a signed and dated acknowledgment of receipt of the Court's order for each person whom Demetrius Scott provided a copy of the Court's order;

O. That the Court retain jurisdiction over Demetrius Scott and over this action to enforce any permanent injunction entered against him;

P. That the United States be entitled to conduct discovery to monitor Demetrius Scott compliance with the terms of any permanent injunction entered against him; and

Q. That the Court grant the United States such other and further relief, including costs, as is just and reasonable.

DATED: September 23, 2014

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